

# NEWS

## Council Addresses Challenges

A "not so rosy" report on the budget, a thorny need for intervention in the Berkeley Local's legal affairs, upcoming Union elections, financial and philosophical questions over the Open Files Case, and decisions regarding grievances of various Locals — including an unusual development in a Davis case: these and other topics engaged the latest 8-hour meeting of the University Council-AFT, the statewide governing body that unites the nine UC campus Union Locals.

January 30 at Los Angeles the quarterly meeting drew representatives from all nine UC-AFT Locals, including Eric Schroeder and Steven Baker from UCD, as well as the Council's hired administrators.

### Budget Concerns

"This is the first time I must report to you that our financial situation may no longer be so rosy," began Council President Tom Dublin as he presented the latest figures of income and expenses.

In general, most expenses are running below anticipated costs, chiefly due to the Council's cautious policies: "here in our second year of operations we are still just learning how to spend money," Dublin explained.

However, two matters must immediately concern the Council, Dublin said, or else "we could come to the July meeting, facing cuts to live within our means." The potential problems are membership levels (the chief factor of Union income) and the unexpectedly high prices of some Union legal actions.

Statewide "we must grow by 200 new members" during the current academic year, Dublin said. Recruitment numbers are 80 to 100 lower this fall than the previous. Half of the UC-AFT membership are Lecturers, of which nearly 20% leave each academic year; the attrition of last summer was slightly higher than expected. Only UCLA of the nine campuses has shown significant growth in membership this year.

Each campus needs an organized campaign in 1988, said Gary Adest, UC-AFT Executive Director. Adest spoke at length of the need to combine three recruitment factors: 1) coordination of campaigns with statewide mailings such as the Council's organ *Perspective* and the recently mailed *Survival at UC: A Handbook for Non-Senate Faculty*, 2) vigorous membership committees at the Local level, and 3) the employment of outside specialists.

The only significant problem on the other side of the ledger (expenses) comes under "legal expenses." In a total budget of roughly \$160,000, lawyers' and related fees are

threatening to run some \$30,000 over expectations. Lawyer fees for the five-year-old Open Files Case, further reported below, account for nearly half of that current excess.

Dublin and Adest indicated that the Union should not and will not curtail any of its grievances and court actions but that it must exercise greater care in its choice and use of lawyers. At the worst, should legal battles continue to take so much of the budget, the Council could be forced to cut back its publications or to curtail some or all of its professional staff.

All in all, Dublin reported the current budget to be approximately \$19,000 over predicted spending, in the context of beginning the current budget year with a surplus of about \$30,000.

### Intervention in Berkeley

For nearly two hours the Council carefully and cautiously debated whether circumstances required it to interfere with the UC-Berkeley Local's administration of the contract (grievances). In recent months a number of important proceedings at Berkeley had been jeopardized by the inaction or missed deadlines of Local members managing grievances.

Dublin and Adest led a discussion, with two representatives from Berkeley participating, of why the Council felt obliged to intervene while not wishing to impair the autonomy of the Local. At the end of the morning session, a strong majority voted to place Executive Director Adest in charge of all grievances at Berkeley until some future time when the officers at Berkeley can arrive at organization and personnel decisions to make contract enforcement efficient.

The danger of legal liability (known as any union's "duty of fair representation") particularly swayed Council thinking; a Lecturer or Librarian could conceivably have grounds to sue the Union (the Council as well as the Local) if he or she found the Union in any way negligent in pursuing a grievance. Further, current cases at Berkeley will probably have repercussions on other campuses, increasing the Council's concern that they be prosecuted effectively.

However, Council officers and staff as well as the Berkeley representatives were reluctant to supercede Local authority. Seeking compromise, Dublin suggested that Adest's temporary appointment be made a joint appointment with a Berkeley local member serving as co-

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# Rhetoric Case Settled and Unsettled

A secretive agreement, a legal blunder by the University, a remarkable reversal in the Union's favor by a state agency, an equally remarkable conciliatory gesture by UC-AFT, and a modestly hopeful yet still uncertain future for three fired UC-Davis Lecturers — all these and other developments make for the rather confusing outcome of the Union's actions against the UCD Rhetoric Department's dismissal of Don Ranstrom, Nancianne Pfister and Robert Johnson, whose story was reviewed in detail in the first (November '87) issue of 2023 News.

Though it will likely increase your confusion momentarily, we begin this report by reprinting a document written by Davis Local President Kevin Roddy — therapeutic for all, we trust — two days after he learned of a settlement signed (15 December 1987) by Ranstrom, Pfister, Johnson and the University:

*AFT Local President Kevin Roddy, who has some reputation for honesty, apparently belied this by refusing to report the terms of the settlement involving Nancy Pfister, Don Ranstrom, and Bob Campbell, three former Lecturers in the Rhetoric Department. In an extremely frustrating interview, this reporter was not even able to ascertain whether or not Roddy was present at the hearing, if indeed there was one. "A settlement has been reached," he said, evasively. When asked if he had been instructed to announce this, he seemed to feign ignorance. When requested to put the passive statement ("has been reached") into the active, Roddy uncharacteristically refused. (It is common knowledge that Roddy holds a Ph. D. degree in English from an accredited institution of higher learning, and thus could have easily performed the transformation.) When asked whether all the parties agreed to the settlement, Roddy was silent. When asked if one of the terms of the settlement was complete and absolute confidentiality, Roddy avoided looking this reporter in the eye.*

*Roddy did say that confidentiality may or may not be the heart's blood of the administration, that secrecy in such matters may or may not be a way of life in such cases, if indeed they ever arise. "You can see why the issue might or might not have come up," he indicated, "since even when there is or is not an issue of precedents, the administration may or may not want people to get the wrong idea." Roddy refused to admit that this statement made no sense.*

*The president did not cooperate with this bulletin at all concerning the terms of the settlement, thus opening himself up to apparently justified charges of backroom deals and smoke-filled rooms. If there were indeed a settlement, perhaps the Rhetoric Department freely admitted that it had fired the three when it was forced, because of a successful union suit, to rehire Lecturers Kahl and Shadowen; perhaps it did not admit it at all. Perhaps the administration offered a magnificent cash award, with profound apologies, for treating some of the best teachers at the University as expendable (Roddy admitted the three did not have tenure); perhaps no such terms were even contem-*

*plated. Perhaps the administration praised the three for a combined total of thirty-two years' service, including student advising (which may have been unpaid) and mentoring graduate students who are now teaching their courses; perhaps there was no such praise. Perhaps there was an extremely generous offer, on the administration's behalf, to rehire the three as if nothing had happened; perhaps this did not occur.*

*It is an axiom in the communication science that the absence of a message is a message in itself. As much as this reporter personally likes Roddy, and as much as he has not been a detriment to Union activities on campus, 2023 News finds itself in the extremely awkward position of questioning his abilities to recognize the best interests of represented teachers and librarians. The three Rhetoric Lecturers have experienced a deprivation of income and an emotional distress which no other party in the case has felt; Roddy ought at least to be able to admit that the settlement has in some remote way compensated them for their loss and heartbreak.*

And now 2023 News will try to explain the mysterious settlement, Roddy's response and the subsequent, unexpected twists in this plot.

Some of the mystery arises from the settlement's provision that its parties not "publish" the details of the written deal. However, that secrecy does not apply to this journal. In the settlement signed last December, the University agreed to review the grievants like any other sixth year Lecturers and to consider them as candidates for appointment to future vacancies in Rhetoric. In return, Ranstrom, Pfister and Johnson withdrew their protest of 23 July 1986 under the Academic Personnel Manual (APO) 140.

Because the three Lecturers are not free to discuss their settlement, we can only infer that they and their Union-paid lawyer believed that they could not win any more than this from the University. After all, they had suffered and fought their dismissals for 17 long months and endured various frustrations, including the rejection of a separate motion brought by the Union before PERB (the Public Employees Relations Board).

Out of the blue, scarcely a week after the settlement, all parties were shocked when a PERB committee, to whom the Union had appealed the earlier ruling but with little hope, reversed the earlier rejection and decided that the facts of the case merited a full hearing before PERB.

Most shocked was the University when it realized that the recent settlement did not specifically nullify the PERB suit. The Union was suddenly free to reopen the case; PERB does not deal with individuals but only with Unions and other groups.

This unprecedented case of University vulnerability went to January 30's meeting of the UC-AFT Council.

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### Council Meeting

administrator of contract matters. But when neither of the Berkeley members present could accept appointment to such office, the Council transferred the authority to Adest for the immediate future.

### Open Files Strategy Questioned

After lunch the Council heard reports and, in some cases, took action on several legal battles. Of these, the longest discussion concerned the Open Files Case on grounds financial, political and philosophical.

The Open Files Case — the AFT lawsuit to extend freedom of information rights and laws into academic personnel files — has become a major hole in the Union's pocket, now running \$14,000 over planned cost.

With marked dissatisfaction, the Council read and discussed a report of its representatives' meeting, two days

### See you at the club

In order to increase communication among Lecturers and Librarians and their Union, monthly informal gatherings at the UC-Davis Faculty Club will begin in March. The first "social" will begin at 4:30 p.m., Thursday, March 3 at the Club, located on the East side of campus.

Your host will be John Boe a Union member who is also a Club member. Please, come talk about any job matters that concern you; we want to hear what's on your mind. And you, too, may hear something worth your time. It's a date.

earlier, with Oakland attorney Robert Bezemek, chief Union lawyer in the matter. The report and other contact with Bezemek showed him unwilling to abide by the maximum \$800/month set by the Union. The council discussed possible remedies, up to and including the replacement of Bezemek.

While this case is generating financial difficulties now, it may very well lead to a financial impossibility. Should it ever go to court, the University is expected to call an interminable list of witnesses to defend absolute secrecy for academic personnel communications, taking court hours the Union can hardly afford to staff. Though the American Civil Liberties Union (ACLU) might possibly enter the action, that is not foreseen before the appeals stage, which the University promises to take to the U.S. Supreme Court.

Therefore, the Union continues to seek settlement before trial. But at considerable length, President Dublin questioned to what extent our present tactics are taking us there.

"How much of the present brief reflects AFT Council thinking, and how much of it rather expresses our lawyers' opinions?" Dublin asked. He indicated that an overwhelming majority of the Faculty Senate, systemwide and on individual campuses, opposes our suit, but that many tenured colleagues have told him and other Union officers that should the Union modify its demands only to omit divulgence of names, perhaps half the opponents would shift their position. Dublin said the suit's call for a five-year retroactive application might also be too strenuous for any final agreement with the University.

Dublin requested and received support for future discus-

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### Rhetoric Case

Roddy instructed the Davis representatives to argue for proceeding at PERB and to promise the Davis Local's complete financial responsibility.

However, at the Council table, two factors eventually persuaded the Council to vote against taking advantage of the PERB reversal and the University's embarrassing oversight. Both points were argued most forcefully by Marde Gregory of UCLA, an expert on the Unit 18 contract and its enforcement.

First, the Council realized that a final PERB victory could be no more than a moral victory and public chastisement of the University, that the December 15 settlement would preclude any further substantive actions to benefit Ranstrom, Pfister and Johnson.

Second, and more important, she suggested that the Union make this an occasion for demonstrating the Union's sincere intent to "play fair" in its struggles with the University by the magnanimous and conciliatory gesture of withdrawing the PERB suit. She reminded Council that such oversights in negotiations of many kinds usually go against the Union, which will never have resources enough to retain a legal staff as large as the

University's. Since past and future legal proceedings often depend on our seeking fair play from the University, we should seize the opportunity to practice the fairness that we preach, she said.

And since the Union has and will have other charges brought before PERB on other cases, the Union should prove to PERB how the Union strives to act within the spirit as well as the letter of pertinent law, she continued.

The Council discussed these and other perspectives before deciding by vote to withdraw the PERB charges and to encourage our Davis Local to watch carefully the Rhetoric Department's treatment of its three victims, especially in light of a crucial side effect of the December 15 settlement: that the three Lecturers' future status now falls under the provision of the Lecturers' contract (previously a debated point because they had lost their jobs only days before the Memorandum of Understanding went into effect in July 1986).

And for now, that's where the case stands. UC-AFT plans to withdraw the PERB charges while monitoring the fulfillment of the December settlement, hoping that circumstances and the University cooperate in soon bringing these three valuable teachers back to UC-Davis students.



## Council Meeting

sion at the state and local level, perhaps to include a statewide meeting on the issue and to obtain additional legal opinions.

## University to Pulp?

The Council heard and discussed a number of other legal issues that involve particular UC campuses. As a whole, the news from the legal front was very satisfying and encouraging.

Two Berkeley cases were reviewed. The first involves the dismissal of six School of Education Lecturers on the basis of what the Union claims was an illegal policy change by an Education Dean, documented by a 16 October 1986 letter. In some disarray due to missing an important procedural deadline, this case most concretely demonstrated need for Council intervention in Berkeley's grievances. A second case that grieved a courseload change at Berkeley has now been settled, giving the Union and the aggrieved Lecturers as much as the Union had hoped to win: cash awards for 12 Lecturers in exchange for the Union's withdrawing its grievances and PERB (Public Employee Relations Board) suit.

Next the Council turned to the surprising developments in a UC-Davis dispute, of which you can find a lengthy account elsewhere in this issue of 2023 News.

At UCLA, a Librarian of 17 years' service had contested dismissal by accusing the University of racial discrimination and review procedure errors. A settlement was announced: the Librarian was rehired on a part-time basis through retirement. The Union has high hopes of winning another UCLA case on hiring searches (using a national search even for the positions of Lecturers who approach their six-year reviews), according to Marde Gregory of UCLA, because the judge in the case has found the University to be inconsistently defending two different positions.

Similar prospects of victory are growing in the current

## Members Welcome at Council

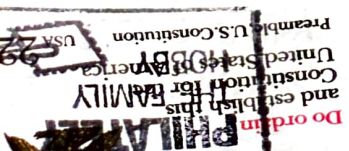
The next meeting of UC-AFT Council will occur March 12, a Saturday, at the Travelodge Hotel near the San Francisco Airport. All Union members are welcome to attend and participate in some or all of the day-long session. To obtain further details and possible assistance with transportation, contact Local 2023 President Kevin Roddy at 753-3337.

cases on courseload at San Diego and hiring at Santa Cruz. "If we win all three of these cases that now seem winnable, then we'll have beaten the University to a pulp," said a smiling Gregory, a Council expert on the contract and its administration. On workload and hiring our position may soon become so "much more powerful" that the University may well wish to re-negotiate parts of the contract to recoup their losses, she went on. However, a new sort of threat to the Union has arisen in the San Diego case; the University is now requesting court costs should it win.

The status of the annual re-opening and renegotiation of the MOU (Memorandum of Understanding) Unit 18 contract was reported by Gregory and Schroeder, two Union representatives to those proceedings. They had no breakthrough to announce and were bound to speak only generally. The outcome is expected in time for a full report in the next 2023 News.

Treasurer Miki Goral spoke of plans for the re-opening of the Librarians' contract. Though the Librarians may seek some changes in the current rules governing layoffs, they are chiefly interested in obtaining grievance and arbitration rights and procedures identical to those enjoyed by Lecturers under the MOU contract.

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